



Minutes
Wisconsin Small Business Environmental Council

May 2, 2012
DNR Headquarters – GEF 2, Room 713
101 S Webster St, Madison WI
9:00 am – 12:00 pm

Members Present: Jeanne Whitish, Shane Lauterbach, Amy Litscher, Vince Ruffolo, Al Shea, Mike Simpson

Absent: Steve Aldridge, Rich Klinke

DNR Staff: Renee Lesjak Bashel, Beth Goldowitz, Eileen Pierce

Guest: Mark McDermid

Introductions/Agenda Repair

Jeanne Whitish called the meeting to order at 9:10 am, and Al Shea opened the meeting with greetings. The Council did some brief agenda repair, to leave extra time for Vince and Mike to arrive.

DNR Rules Review Briefing

Eileen gave the Council an overview of the retrospective review of rules that is currently underway in Wisconsin. Executive Order #61, which came on the heels of Act 46, directed all agencies to work with the Small Business Regulatory Review Board (SBRRB) and conduct this review. The process began with public announcements in early April.

The Small Business Ombudsman, Eileen, is leading this effort within DNR. Eileen reported that the agency has more than 3700 pages of administrative code to review and has developed a database for tracking review of each of the rules. The operational criterion for DNR's review is that recommendations for repeal or modification of any rules are not supposed to inhibit or undermine protection of the environment and public health.

Phase I of the review will comprise a report to the Natural Resources Board at its June meeting. The Board's recommendations will then be sent to the SBRRB. Eileen expects to have a preliminary list of the rules that will be targeted by May 11.

Amy asked about the response to DNR's request for suggestions. Eileen reported that, as of today, the online survey had received 52 responses, many of which contained multiple suggestions. All the suggestions are being assigned to appropriate experts among the agency staff for analysis.

The next step in the review will be a final report to the NRB, scheduled for February 2013. The DNR will then make its final report to the SBRRB in March 2013.

DNR intends to publish its draft recommendations to the Board, and solicit public comment on these recommendations, in November 2012. As part of this review, the agency has been examining similar reviews conducted in other states.

The question was raised about what actions the SBRRB will take after receiving the agencies' recommendations. Eileen was not certain of the next steps.

Action: Eileen asked the Council to think about how it wants to be involved in this review, and what kind of input it wants to provide.

At 9:20 am, Vince arrived and joined the meeting in progress.

Amy asked if other agencies are involved in this review. Eileen reported that the review encompasses all state agencies and requires all to cooperate with the SBRRB. Some agencies are not yet as far along in the process as DNR. Amy commented that many of their clients run into overlap between DNR and Department of Transportation rules.

At 9:25 am, Mike arrived and joined the meeting in progress.

Vince asked who currently chairs the legislative committees related to this review. Al discussed the current chairs but observed that new chairs will likely be assigned for the next legislative session.

Mike asked about the relationship between the Council and the SBRRB. Al described that the two committees have not worked together much in the past, but that DNR would like to establish a clearer link between them and believes there should be a strong relationship.

Vince asked for information to clarify how the agency's recommendations would be forwarded to the Governor or turned into actions. Al explained that, under current procedures, the Governor would have to approve any proposed rule changes, then the Board would recommend specific changes. The legislature can passively approve these without action, or the proposed changes can go through the relevant legislative committees.

Al commented that the DNR has a very good chance for this review to be successful thanks to Eileen's leadership of the project.

Green Tier Program Background and Update

Mark McDermid provided the Council with a briefing on the Green Tier Program. He reviewed the history of Green Tier, which began in 1996 with the legislature authorizing a pilot program involving ten companies. In 2004, the DNR got legislative approval for a 5-year effort to broaden the initial pilot and develop a program designed to differentiate companies that are committed to superior environmental performance. In 2009, the legislature made the Green Tier program permanent.

Mark observed that legislative support for Green Tier has always been bipartisan, and participation has always included the business community, the university, and environmental groups in addition to DNR.

Green Tier currently has almost 100 participating businesses, of which about 20% are small businesses.

Mark stressed that the underpinning of the Green Tier law is that environmental progress need not take place at the expense of economic strength. "Superior environmental performance" is defined very broadly within seven categories, and the law allows qualifying businesses to be treated differently from a regulatory standpoint. Here in Wisconsin, it has been implemented through statutory authority alone, without the need for new rule development—state rule being much easier to eliminate through budget or other legislative processes.

Green Tier's expectations:

- use Environmental Management Systems to sustain environmental performance
- share goals
- report on progress annually
- audit the company's system regularly

Green Tier's entry requirements:

- a demonstrated level of compliance (three years; though the agency's Secretary has the ability to waive this requirement)
- a basic understanding of "superior performance"
- an EMS in place already, or established within 12 months (ISO14001 will automatically qualify)

Green Tier's benefits:

- recognition (includes events and networking)
- publicity (usually tailored to the company's needs; also includes report to the legislature every other year): <http://dnr.wi.gov/topic/GreenTier/Reports.html>
- single point of contact at DNR
- logo for marketing use
- lowest inspection frequency allowed by law (including limited immunity for violations discovered while conducting self-audits)
- assorted other benefits (includes searchable library of sustainability articles, case studies with contacts, connections with the Wisconsin Sustainable Business Council, periodic meetings, and flexibility in addressing compliance issues)
- Tier 2 benefits include specialized contracts
- Charters, unique to Wisconsin, provide tools for certain business sectors, along with a legal framework for resolving problems within the sector

Other beneficial aspects of Green Tier participation:

- compliance audit—sometimes used as an entry point into Green Tier; self-disclosure of violations will limit a company's financial exposure
- simplified application process
- sustainability—Green Tier offers tools for building credentials
- Wisconsin Sustainable Business Council Green Masters program

Mark concluded his presentation by emphasizing that Wisconsin's Green Tier program is unique in the range of tools it offers. He then invited questions from the Council.

Vince asked whether a small business in a nonattainment area would be able to participate in Green Tier. Mark explained that any company is welcome to participate regardless of location. When a company's requirements are partly driven by its location, Green Tier has some authority to treat the company differently (for example, it could customize a company's reporting requirements).

Vince asked about water treatment requirements in southeastern Wisconsin being different than other locations and whether a company that recycles or treats its wastewater could participate in Green Tier. Mark responded that it could.

Vince asked whether a company should have any reason to fear asking about, or applying for, Green Tier participation. Mark responded that working with Green Tier's partners, like the Wisconsin Sustainable Business Council or the Manufacturing Extension Partnership, can be very helpful to businesses when the DNR might not be the right contact for a company.

Mike asked about the relationship between Green Tier, the DNR and the US EPA. Mark responded that the nature of this challenge is different, but they continue to look for ways to improve the relationship with EPA and gave an example of success in this area on the issue of Title V air permits.

The Council took a short break at 10:20 am before re-convening at 10:30 am.

Goals/Directions for 2012

Jeanne introduced this agenda item by saying that she hopes to develop a few main goals for the Council this year and some way to measure the Council's effectiveness at meeting those goals. She observed that the Council seems to have a real opportunity right now to maximize its potential impact in ways that were not possible in the past.

The Council then discussed several suggested goals that had been submitted and compiled for review at the meeting:

1) Sustainable practices—Shane observed that businesses can sometimes be way ahead of regulatory requirements, and that much can be learned from what businesses are doing in this area. He also expressed the belief that "sustainability" has to be much broader than just environmental improvement; it has to make economic sense also and be understandable by a company's employees.

Jeanne asked whether the Council could try to increase small business participation in Green Tier (currently only 20% of the total) as a goal for 2012. Al thought this would be an outstanding goal for the coming year. The Council discussed getting input and information from businesses of varying sizes on this question. Mike mentioned the example of a sustainability initiative being conducted by the Waukesha County Economic Development Corporation. Amy also suggested that perhaps the Council could help connect different business sectors.

Action: Al suggested that DNR can work with Green Tier to bring some companies to future Council meetings in order to get their perspective on sustainability issues.

2) Review of rules that affect business growth—The Council discussed the good fit between this suggested goal and the review of agency rules that's currently underway in DNR.

3) Land development—Vince observed that there has been a lot of development in southeastern Wisconsin in recent years and mentioned issues like wetland delineation and the DNR taking a friendlier approach to development. The Council discussed some recent changes intended to streamline certain processes, along with the problem of multiple jurisdictions (e.g., at the county level in addition to the state) that can be confusing to land developers.

Al suggested that the Council could consider providing input on rules that affect the issue of multiple jurisdictions, if such rules arise during 2012.

Action: Vince requested a copy of the recent legislation regarding wetland development and mitigation activities. [Renee emailed links to related legislation and summaries on 5/2/12.]

4) Growing manufacturing in southeastern Wisconsin (especially as related to air and water permits)—Vince suggested that DNR regulations should be more welcoming to new business. Al said that he can share some recent success stories from his office. Al also observed that some states have a clear, single portal for new business, but Wisconsin does not yet have this. The Office of Business Support and Sustainability is currently trying to create this, and hopes to have something available by the end of summer. Currently, the most common entry points are either the Wisconsin Economic Development Corporation or the DNR.

Shane mentioned that he encounters many local businesses, located here, that are not expanding in Wisconsin, and discussed the most common reasons he hears: rules and regulations, concerns about electric power supply and capacity, and lack of a work force with the required knowledge base. The Council discussed possible reasons for this and current efforts underway, along with the possibility of evaluating the root issue(s) behind it.

Mike asked what role the Council can play in this area and whether it might address the issue of perception of Wisconsin as a business location. The Council discussed the current review of rules and whether it might provide information to address this question. Shane asked whether the agency has an internal rules review underway also, to get suggestions for improvement from within the agency also.

The Council discussed possible ways to get information and input from business on this general question. Al reported that the Wisconsin Economic Development Corporation is holding hearings around the state, and WEDC staff might be able to give a briefing to the Council at a future meeting.

Action: Request a briefing from WEDC on business input obtained from its listening sessions.

Shane asked Eileen how the Council could help with the rules review currently underway. Eileen suggested that the Council could comment on the draft report of recommendations and also during the public comment process. She explained that the first step of the review involves identifying rules for possible repeal; the next phase, which involves identifying modifications and exemptions, might have greater relevance for small businesses.

Al offered an opportunity for the Council to review the DNR's draft recommendations the week before the Natural Resources Board meeting in June. The Council could then discuss whether to draft its own letter to the Board.

Action: The Council scheduled a meeting for June 21, 2012, at 9:00 am to discuss the rules review and draft recommendation. Al will send the draft report of recommendations to the Council on June 18, to allow several days for review before the meeting.

Shane asked how the rules review process will work. Eileen explained that the initial phase is to identify rules that are ripe for repeal, i.e., the "low hanging fruit." More detailed recommendations for modifying rules will come later. Al suggested that the Council's initial letter to the Board could be general, and the Council could provide more info again later in the

process. Jeanne suggested that the Council might look at the universe of suggestions and choose to focus in on the issues it feels are most important.

Action: Renee will share some examples of the Council's input in past years. [Renee emailed 3 examples on 5/2/12]

Jeanne expressed appreciation for this beneficial discussion on the Council's goals.

Other Business

Federal boiler rule—Renee reported that she received a request from Pat Haskin, a former Council member, to meet with the Council to discuss this rule and its impact on small business. Renee offered to summarize some basic information about the rule for the Council.

Action: The Council will discuss the federal boiler rule at its next meeting (Renee will add an agenda item, 30 minutes). Invite Pat Haskin to attend the meeting, either in person or by conference call.

Council Vice Chair—Jeanne put out a call for volunteers to serve as Vice Chair of the Council for 2012. She commented that, thanks to the good staff support provided by Renee, nobody should hesitate about volunteering.

Action: Renee will put an item on the agenda for the next meeting (15 minutes), to discuss filling the Vice Chair position.

Next Meetings

The Council's next meeting will be Thursday, June 21, 2012, from 9:00-11:30 am in DNR room 713.

Adjourn

The Council adjourned its meeting at 12:00 pm.